IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3491 of 1990

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

BABUBHAI VIDJA

Versus

MAMLATDAR

Appearance:

MR NR TANDEL for Petitioner No. 1

MS KATHA GAJJAR, AGP for Respondents Nos.1-4

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 30/01/2002

ORAL JUDGEMENT

#. The petitioner before this Court is a cooperative farming society registered under the Gujarat Cooperative Societies Act, 1961. The petitioner claims that its members are agriculturists and belong to Scheduled

Castes, Scheduled Tribes and Backward Classes.

#. It is the grievance of the petitioner that though the Society has been registered as far back as in the year 1984, no land has been allotted to the petitioner Society till the date; defeating the purpose for which the said Society is formed. The centre of the dispute is the land bearing Survey No.42/1/1 admeasuring 472-Acres and 30-Gunthas of Village Chandisar, Taluka Palanpur, District Banaskantha. The said land originally belonged to one Shri DS Patel and has been acquired under the Gujarat Agricultural Lands (Ceiling) Act, 1960 (hereinafter referred to as 'the Act'), being in excess of the ceiling area. The question is the allotment of the said land under Section 29 of the Act. The petitioner claims that the petitioner Society, being a farming cooperative society shall have precedence in such allotment. It is prayed that the petitioner be given atleast 200 acres of land out of the said land. However, some landless labourers have approached this Court by filing Civil Application No.9067/96 as they too have applied for allotment of some land out of the said Survey No.42/1/1.

#. The petition is contested by the State Government. The Mamlatdar, Amirgadh one Shri BK Mewada has made a counter-affidavit. It is denied that all the members of the Society are agriculturists as averred. It is stated that, except 28 members who are the residents of Village Karza, other members are not the residents of the villages in the vicinity of the land in question. Such members are not entitled to grant of land out of the said land bearing Survey No.42/1/1 under Section 29 of the Act. It is further stated that earlier two petitions preferred by the very petitioner, being Special Civil Applications Nos.1114/87 and 3216/87 have been dismissed by this Court.

#. In Special Civil Application No.1114/87, the very petitioner had prayed, inter alia, that the State Government be directed to remove the encroachment from the land in question and to grant the said land to the petitioner Society. The said petition was disposed of by this Court (Coram : D.C.Gheewala, J.) on 25th March, 1987 in the following terms :

> "The Deputy Collector to whom the matter is remanded seems not to have taken any proceedings in the matter though a year has passed. The Deputy Collector is, therefore, directed to dispose of the matter within a period of twelve

weeks from the date of receipt of the copy of this order. With the above stipulation the petition stands disposed of as withdrawn."

Once again the petitioner preferred Special Civil Application No.3216/87 for the identical relief. The said Writ Petition was disposed of by this Court (Coram : M.B.Shah, J. as he then was) in the following terms :

"Rejected as there is no substance in it.
However, the Collector is directed to abide by the directions issued by this Court by the order dated 25th March, 1987."

The fact of the above referred two writ petitions and the orders made thereon have not been referred to in the memo of the present petition. Thus, the petitioner has suppressed material facts from this Court.

#. It thus appears that, on account of internal dispute amongst the prospective allotees and an unfair claim made by the petitioner Society, the said land has remained unalloted for more than 15 years thereby frustrating the object of the Act. Suffice it to say that the concerned Authority shall undertake the exercise of making allotment of the said land amongst the applicants in accordance with the provisions contained in Chapter-V of the Act and the rules and/or orders made thereunder. The matter should be decided giving it utmost priority.

#. Subject to the above direction, the petition is dismissed. Rule is discharged with cost.

(Ms. R.M.Doshit, J.)

/sakkaf